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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

JONATHAN LEVI WILMERT,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Cause No. _____

COMPLAINT

COMES NOW JONATHAN LEVI WILMERT, and for his cause of action against the UNITED STATES OF AMERICA, claims and alleges as follows:

PARTIES

I

Plaintiff JONATHAN LEVI WILMERT is a resident of Maricopa County, State of Arizona. At the time of the events giving rise to this suit, he was a resident of Lewis and Clark County, State of Montana.

II

The defendant is the UNITED STATES OF AMERICA. The claims against defendant UNITED STATES OF AMERICA arise from the Government's conduct in publishing healthcare related information to individuals who did not have a need to know it at the Veterans Administration Medical Center, Forth Harris, Montana. The negligent acts and omissions that are the subject of this action were committed by the Government's agents and employees while acting within the course and scope of their employment.

JURISDICTION

III

The jurisdiction of this court is evoked pursuant to 28 U.S.C. §1346(b), 2671, et seq., more commonly known as the Federal Tort Claims Act, in that agents and employees of the federal government, acting within the scope of their employment, committed negligent acts as hereinafter more specifically alleged. This court has exclusive jurisdiction over tort claims brought against the United States pursuant to 28 U.S.C. §1346(b), 2671, et seq.

IV

Plaintiff JONATHAN LEVI WILMERT submitted a timely claim for relief to the United States Department of Veteran Affairs. That claim was presented more than 6 months ago and no action has been taken by United

States Department of Veteran Affairs, and, as such, this tort is timely brought pursuant to 28 U.S.C. § 2401(b).

VENUE

V

All of the events, errors, omissions and occurrences, which give rise to this lawsuit, took place and were committed in Lewis and Clark County, Montana. Therefore, venue of this action is appropriate in the Helena Division pursuant to Local Rule 3.2 (b)(1)(A).

NATURE OF THE CASE

VI

On or about October 14th, 2016, and as a patient, Plaintiff JONATHAN LEVI WILMERT had a telephone call with Montana V.A. nurse Michelle Clark, R.N., related to him obtaining a prescription.

VII

As a result of this call, Montana V.A. nurse Michelle Clark, R.N., refused to write Plaintiff the prescription and instead, a few days later filed a disruptive behavior complaint against Plaintiff, which contained Plaintiff's confidential medical information. The disruptive behavior complaint against Plaintiff was forwarded to the Incident Threat Assessment Team, who is responsible for reviewing employee disruptive behavior. As a result,

Committee members of the Incident Threat Assessment Team were forwarded an email with a link to a report containing Plaintiff's confidential medical information who did not have a need to know it.

COUNT I
VIOLATION OF MCA TITLE 50, CHAPTER 16, PART 8

VIII

Plaintiff JONATHAN LEVI WILMERT realleges the allegations contained in Paragraphs I-VII of this complaint.

IX

MCA § 50-16-817 provides that a person aggrieved by a violation MCA Title 50, Chapter 16, Part 8, may maintain an action for relief as provided in this section.

X

Defendant UNITED STATES OF AMERICA did violate MCA Title 50, Chapter 16, Part 8, by sharing Plaintiff's confidential medical information with individuals that were not entitled to receive it.

XI

Plaintiff claims relief under MCA § 50-16-817 for Defendant UNITED STATES OF AMERICA's violation of MCA Title 50, Chapter 16, Part 8, including for the court to order defendant to comply with this part

and order any other appropriate relief, for any pecuniary losses incurred by the Plaintiff, for any other losses claimed by the plaintiff as allowed by this statute, and for his reasonable attorney fees and all other expenses reasonably incurred in the litigation as allowed by this statute.

**COUNT II
INVASION OF PRIVACY**

XII

Plaintiff JONATHAN LEVI WILMERT realleges the allegations contained in Paragraphs I-XI of this complaint.

XIII

Under Montana common law, a Plaintiff may bring a cause of action for invasion of privacy against a defendant for the wrongful intrusion into one's private activities in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities.

XIV

Defendant UNITED STATES OF AMERICA did commit the tort of invasion of privacy against Plaintiff by sharing Plaintiff's confidential medical information with individuals that were not entitled to receive it, causing him to suffer damages including but not limited to past and future

medical expenses, pain and suffering and emotional distress for which he claims damages.

**COUNT III
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

XV

Plaintiff JONATHAN LEVI WILMERT realleges the allegations in paragraphs I-XIV of this complaint.

XVI

That the negligent conduct of the Defendant UNITED STATES OF AMERICA as set forth above has caused Plaintiff JONATHAN LEVI WILMERT to suffer and continue to suffer serious and severe mental and emotional distress for which he claims damages.

XVII

That Plaintiff JONATHAN LEVI WILMERT's serious and severe mental and emotional distress was a foreseeable consequence of Defendant UNITED STATES OF AMERICA's negligent conduct as set forth above.


WHEREFORE, Plaintiff JONATHAN LEVI WILMERT prays judgment against Defendant UNITED STATES OF AMERICA as follows:

1. For damages in the amount of \$200,000.00

2. For reasonable attorney fees to be paid by the defendant, and costs of the action.
3. For the court to order the defendant to comply with MCA Title 50, Chapter 16, Part 8.
4. For any further relief the court deems proper to make the Plaintiff whole.

DATED THIS 13th DAY OF MAY, 2019.

EVERETT LAW, PLLC

BY: 
J. BEN EVERETT